

**PATENT**

Atty Docket No.: 200310137-1  
App. Ser. No.: 10/628,369

**REMARKS**

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Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks.

By virtue of the amendments above, Claims 1, 8, 9, 16, 18, 24, 26, 29, 30, and 33 have been amended and Claim 7 has been canceled without prejudice or disclaimer of the subject matter contained therein. In addition, Claims 5, 6, 11, 12, and 27 have been withdrawn from consideration. Accordingly, Claims 1-6, 8-27, and 29-39 are pending, of which, Claims 1, 16, 24, 27, 29, and 33 are independent.

No new matter has been introduced by way of the claim amendments; entry thereof is therefore respectfully requested.

**Allowable Subject Matter**

The indication that Claim 10 is objected to as being dependent upon a rejected base claim but that it would be allowable if rewritten in independent form is noted with appreciation. Applicants have elected to not amend Claim 10 to be in independent form because it is believed that all of the pending claims are allowable over the cited documents of record.

**Improper Restriction Requirement**

It is respectfully submitted that the Restriction Requirement set forth in the Official Action dated June 1, 2006 is clearly improper because the Examiner's actions have proven that no serious burden exists on the Examiner to search and examine all of the pending claims. As stated in MPEP § 803, "[i]f the search and examination of all the claims in an

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application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

The Examiner has unmistakably proven that no serious burden exists by searching for and examining all of the claims as presented in the originally filed application. (See, *Official Action*, dated November 30, 2005). Clearly, therefore, the Restriction Requirement fails to meet the requirements set forth in MPEP 803 and should be withdrawn.

In reply to the Applicants' arguments, the Examiner asserts that "the search has not been done based on the rejection that the species are replaceable." (*Official Action*, page 2, par. 1). The Examiner further presents arguments that do not appear to be germane to the propriety of the Restriction Requirement. In fact, some of the Examiner's comments are incomprehensible. For instance, the Examiner states "Applicant disagrees with the rejection and the statement about the species are obvious variants from Applicant is required to withdrawn the restriction. Admission on the record that the groups are not patentably distinct will result in rejoinder." Due to the lack of clarity in the Examiner's comments, the Applicants are at a loss as to how they are to respond to those comments.

The Examiner apparently attempts to present arguments that prove that there is a serious burden on the Examiner, if the Examiner is required to search all of the claims. However, because the Examiner has searched for and examined all of the claims as originally filed, why would there be an extra burden on the Examiner? This is particularly troublesome in light of the fact that Applicants have not added claims directed to additional embodiments. Or, is the Examiner admitting that he did not perform a complete search when he prepared the November 30, 2005 Official Action? Clearly, if the Examiner has performed a complete search, then there is no serious burden. However, if the Examiner has not performed a

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complete search, then the examination of the originally filed claims is incomplete and therefore flawed.

With regard to Claim 11, it is not at all clear as to why the Official Action has indicated that the claimed "substrate" comprises a species different from the elected one because the claimed "substrate" is not an alternative form of detecting device, but rather, a component on which a detecting device may be attached. In other words, the claimed substrate provides a means to substantially isolate a detecting device, regardless of the type of detecting device, from a structure on which the detecting device is attached, to therefore enable the detecting device to detect ambient conditions as opposed to the structure conditions.

For at least the foregoing reasons, even assuming for the sake of argument, that the present application includes claims directed to patentably distinct species, the Restriction Requirement is clearly improper because all of the claims have already been searched and examined by the Examiner, as clearly evidenced by the Official Action dated November 30, 2005. The Examiner is therefore respectfully requested to withdraw the Restriction Requirement and to examine all of the pending claims of the present invention.

*Claim Rejection Under 35 U.S.C. §102 or 35 U.S.C. §103(a)*

***Rejections***

*Claims 1, 2, 7-9, 13-20, 22-26, 29-37*

Claims 1, 2, 7-9, 13-20, 22-26, 29-37 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by, or in the alternative, under U.S.C. § 103(a) as allegedly being unpatentable over Japanese Patent No. JP 6,002,892 to Otoi in view of U.S. Patent No. 6,658,325 to Zweig.

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For at least the reasons set forth below, Otoi and Zwieg fails to anticipate or render obvious all of the features of at least independent Claims 1, 16, 24, 29, and 33 of the present invention. Accordingly, independent Claims 1, 16, 24, 29, and 33, and the claims that depend therefrom, are allowable over the disclosures contained in Otoi and Zwieg, considered singly or in combination.

**Claims 3, 4, and 21**

Claims 3, 4, and 21 have been rejected under U.S.C. § 103(a) as allegedly being unpatentable over Japanese Patent No. JP 6,002,892 to Otoi in view of Japanese Patent No. JP 11,322,125 to Sasaki et al.

For at least the reasons set forth below, Otoi and Sasaki et al., considered singly or in combination, fails to render obvious all of the features of at least independent Claims 1 and 16 of the present invention. Accordingly, independent Claims 1 and 16 and the claims that depend therefrom, are allowable over the disclosures contained in Otoi and Sasaki et al.

***Improper Rejection***

Initially, it is submitted that the rejection of Claims 1, 2, 7-9, 13-20, 22-26, 29-37 is improper because the rejection is incomprehensible. In setting forth the rejection of these claims, the Official Action states that they are anticipated by, or in the alternative, unpatentable over Otoi in view of Zwieg. The Official Action, thus, appears to be arguing that the proposed combination of Otoi and Zweig either anticipates or renders obvious Claims 1, 2, 7-9, 13-20, 22-26, 29-37 of the present invention.

Clearly, the assertion that the combination of two references can somehow anticipate a claim is improper on its face. Thus, is the Official Action arguing that either or both Otoi

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and Zweig anticipate the claimed invention? Or, is the Official Action arguing that the claims are both anticipated by either or both Otoi and Zweig and rendered obvious by the proposed combination? As may be seen by the many questions posed herein, it is respectfully submitted that the proposed rejection of Claims 1, 2, 7-9, 13-20, 22-26, 29-37 is clearly improper and should be withdrawn.

*Discussion of the Law*35 U.S.C. § 102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

35 U.S.C. § 103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

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To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

***Arguments*****Claims 1, 2, 7-9, 13-20, 22-26, 29-37**

Independent Claims 1, 16, 24, 29, and 33 have been amended to include that at least one of the detecting devices includes identifying indicia that distinguishes the at least one detecting device from other detecting devices. This feature was originally claimed in Claim 7, which has been canceled without prejudice or disclaimer of the subject matter contained therein.

The Official Action broadly asserted that Claim 7 is anticipated by, or in the alternative, is unpatentable over Otoi in view of Zweig. The Official Action, however failed to provide any indication as to which elements in either of these references is considered as reading on the identifying indicia originally claimed in Claim 7. In fact, the Official Action is deficient in many other respects, such as, with respect to the features claimed in Claims 8 and 9.

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In any regard, neither the Otoi nor the Zweig document discloses that at least one detecting device includes identifying indicia that distinguishes the at least one detecting device from other detecting devices, as now claimed in independent Claims 1, 16, 24, 29, and 33. In addition, for example, neither Otoi nor Zweig discloses that the identities of one or more detecting devices are determined based upon the identifying indicia contained in images obtained of the one or more detecting devices, as claimed in Claims 18 and 35.

Claims 15, 22, and 38, in various forms, recite that the reader device of the independent claims is attached to the robotic device and that therefore, the robotic device is configured to traverse the room and image the one or more detecting devices. In rejecting these claimed features, the Official Action cites to Zweig as disclosing "a mobile robotic to move within range of the external devices, such as sensors, to discover their functionality and send and receive data to the external devices through the robot's onboard web server." As such, the Official Action has failed to assert that the mobile robot (1) of Zweig has the claimed reader device attached thereto and that it is configured to traverse the room and image the one or more detecting devices.

In addition, the Official Action has failed to establish a *prima facie* case of obviousness based on the disclosures contained in Otoi and Zweig because the Official Action has not indicated how either Otoi or Zweig is to be modified, has not provided any suggestion or motivation for the proposed combination, and has not proven that the proposed combination would teach or suggest all of the features claimed in the claimed invention. Clearly, therefore, the rejection of Claims 15, 22, and 38 as allegedly being unpatentable over the disclosures contained in Otoi and Zweig is improper and should be withdrawn.

Moreover, even assuming for the sake of argument that one of ordinary skill in the art would somehow be motivated to combine the disclosures of Otoi and Zweig, the proposed

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combination would still fail to yield the present invention as claimed in the independent claims as well as Claims 15, 22, and 38. Initially, the proposed combination would still fail to include that at least one of the detecting devices includes identifying indicia that distinguishes the at least one detecting device from other detecting devices, as claimed in independent Claims 1, 16, 24, 29, and 33. In addition, the proposed combination would still fail to include that the reader device is attached to the robotic device and that therefore, the robotic device is configured to traverse the room and image the one or more detecting devices, as claimed in Claims 15, 22, and 38.

For at least the foregoing reasons, it is respectfully submitted that neither Otoi nor Zweig discloses each and every element claimed in independent Claims 1, 16, 24, 29, and 33. It is also respectfully submitted that the proposed combination of Otoi and Zweig also fails to disclose each and every element claimed in these claims nor would the proposed combination of Otoi and Zweig have been obvious. As such, Otoi and Zweig cannot anticipate nor render Claims 1, 16, 24, 29, and 33 obvious. The Examiner is therefore respectfully requested to withdraw the rejection of Claims 1, 16, 24, 29, and 33 and to allow these claims.

The claims that depend from independent Claims 1, 16, 24, 29, and 33 are also allowable over Otoi and Zweig at least by virtue of their respective dependencies.

Claims 3, 4, and 21

The Official Action correctly notes that Otoi fails to disclose that the sensors of the one or more detecting devices comprise at least one liquid crystal configured to change color, as recited in various forms in Claims 3, 4, and 21. In an effort to make up for these deficiencies in Otoi, the Official Action cites to the disclosure contained in Sasaki et al.



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The Official Action, more particularly, relies upon Sasaki et al. for its disclosure of a liquid crystal sensor for the purpose of sensing temperature. As such, the Official Action does not assert that Sasaki et al. discloses that at least one of the detecting devices includes identifying indicia configured to distinguish the at least one detecting device from other detecting devices. Accordingly, the proposed combination of Otoi and Sasaki et al. fails to disclose each and every element claimed in independent Claims 1 and 16. The Official Action has thus failed to establish that Claims 1 and 16, and the claims that depend therefrom are *prima facie* obvious in light of the disclosures contained in Otoi and Sasaki et al.

For at least the foregoing reasons, the Examiner is respectfully requested to withdraw the rejection of Claims 3, 4, and 21 and to allow these claims.

**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

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Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: December 19, 2006

By



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